Mr. A. B. Salem.—This is the first instance in which such a thing has been done, and the House is particular that it should have been consulted before making such alterations. I do not particularly refer to the alterations. I know it is an absolutely non-controversial Bill.

President.—It referred to some clerical mistakes.

Mr. A. B. Salem.—Well, if you thus take away the power of the Legislative Council, I have nothing to say.

President.—But then, have we not the sense of discrimination? Because we interfered in this small matter, would we do so in all matters?

Mr. C. Achyuta Menon.—I do not agree with the Hon'ble Member for the Jewish Constituency in that view. If His Highness sees a palpable mistake, is he to pass it? And again, if he is satisfied that it is a palpable mistake, he can either rectify it or refuse assent to the Bill being passed.

President.—Mr. A. B. Salem would say "Let the Bill come. His Highness should pass it with mistakes in it."

Mr. C. Achyuta Menon.—He does not say that His Highness should pass the Bill as it is; but that His Highness may dissent and should not pass it. The Legislative Council may take it up again, then and there, and have the mistakes rectified. He says that His Highness would have passed the Bill. He says so.

President.—Then you may withdraw it.

Mr. A. B. Salem.—I never said so at any time.

President.—Let His Highness refuse assent.

Mr. C. Achyuta Menon.—That is the proper course.

Mr A. B. Salem.—I do not want to say a word about His Highness and his discretion.

A Bill to amend the Cochin Court of Wards Regulation.

President.—Next item—The Cochin Court of Wards Regulation Amendment Bill.

Mr. K. Achyuta Menon.—I beg to move that the Bill to amend the Cochin Court of Wards Regulation be read in Council.

Mr. T. K. Krishna Menon.—I second the motion.

Mr. K. Achyuta Menon.—The objects and reasons of the Bill have been published along with the Bill. The object of these provisions, so far as the Court of Wards is concerned, is to enable it to settle the affairs of the estates under it and to

LIBRARY ARCHIVES Kerala Legislative Assembly

liquidate their liabilities without fear of embarrassment by the pressure of processes from Civil Courts at the instance of the creditors of the estates concerned, such protection being rendered necessary by the fact that, in spite of assumption of management by the Court of Wards, the creditors of an estate are left free to pursue their remedies in Civil Courts. In order to remove all these difficulties, the present Bill is brought in, which provides for the transfer of decrees from Civil Courts to an officer appointed by the Government. In British India the Court of Wards Act contains the provision for such transfer, and the Civil Procedure Code contains the provision with regard to the execution of decrees so transferred. It was thought proper to incorporate both these provisions in the Court of Wards Regulation.

Mr. C. A. Ouseph.—Sir, may I know how many estates have been taken under this Court of Wards in Cochin?

President.—Only one.

Mr. C. A. Ouseph.—May I know whether the Government have valued the assets of this estate?

President.—The Government must have valued them.

Mr. C. A. Ouseph.—I would like to know the estimate. Apparently, this Regulation is made for that estate. I wish to know whether its assets are valued and liabilities estimated, and if so, whether the assets are sufficient to meet the liabilities. I want this information, before I enter upon the merits and demerits of this Bill—of course, if the information is available.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I am sorry I am not able now to furnish mathematically accurate figures.

President.—No. The Hon'ble Member's question is whether such a difficulty has been anticipated in the Court of Wards Regulation.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—In the Court of Wards Regulation, all safeguards have been provided. An enquiry, as laid down in the Court of Wards Regulation, was conducted.

Mr. C. A. Ouseph—.May I know what the provision is?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The main provision is that contained in section 11 of the Court of Wards Regulation.

"Whenever any Tahsildar, after making such enquiry as he deems necessary, has reason to believe that any proprietor in his taluk is or should be declared to be disqualified under section 8, he shall submit a report to the Court setting forth all the circumstances of the case: provided that in the case of

LIBRARY ARCHIVES Kerala Legislative Assembly

proprietors of land on which the full State demand on account of Land Revenue is less than Rs.1,000 or of which the annual rent value is less than Rs.5,000, the Tahsildar need not report the case to the Court, unless he is of opinion that the Court ought to assume the superintendence of the property, provided also that the Court or the Government may call for a report on any case, if it thinks fit."

All these conditions have been fulfilled. I may also tell you, Sir, for the Member's information that, as we have here no regular *Court of Wards Manual* or any rules issued under the Court of Wards Regulation, we followed the procedure and rules laid down in *the Madras Court of Wards Manual*, and only after making careful enquiries that there was a *bona fide* case, we assumed management of the estate.

President.—In this particular case, was an enquiry made into the question of assets and liabilities?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Yes, Sir. It is incumbent on the Government to protect and control the interests of the estate of minors and disqualified proprietors. There is a minor as well as a major in this estate. The minor's interests had to be looked into and, after making some enquiries, we decided that the estate could be saved by careful management. We are to save the estate from ruin and to see whether a reasonable residue can be obtained, half of which at least can go to the minor. We took all reasonable and possible safeguards.

Mr. A. Sankara Puduval.—May I know when the management of the estate was assumed?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—In the year 1101, from 1st Meenam.

Mr. A. Sankara Puduval.—May I know what the urgency of the Bill is?

Mr. K. Achyuta Menon.—The properties that belonged to the ward were sold after the assumption of the management by the Court of Wards. Certain properties that belonged to the estate were sold by the court, because the Court of Wards were not in a position then to collect the necessary funds to liquidate its debts.

President.—We do not want to defraud the rights of creditors and decree-holders. We want some time to collect the necessary amounts to pay them.

Mr. K. Achyuta Menon.—It would not be proper always to adjourn sales. So it is better, as in British India, to provide for the transfers of such decrees.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Sankara Puduval.—One question more, with your leave. I refer to the answer to question No. 27. It is given therein that the revision of the Civil Procedure Code is almost complete, and that a Bill is proposed to be introduced in this session. May I know whether this matter is in contemplation or included in this draft to amend the Civil Procedure Code?

Mr. K. Achyuta Menon.—No. A revision of the Cochin Civil Procedure Code will have to be got through. It will take a lot of time. So what we did is this: portions of the same which relate to decrees are taken separately.

Mr. C. A. Ouseph.—Apparently, this Bill is meant for valuing the assets and liabilities of the estate. If the charge of the estate is assumed, other cases may also arise in future.

It is stated that there is an emergency, and the emergency must be with regard to the estate under the Court of Wards. I want to know whether the assets and liabilities have been taken into consideration.

Rao Sahib Mr. T. V Kasturi Ranga Ayyar.—The liabilities, as far as we could ascertain at the time of the assumption of the management came to 5 lakhs of rupees, and the estate has landed properties which have been valued at 20 lakhs, by one method of valuation and by a rigorous method of valuation at 14½ lakhs of rupees. It has got also other assets as mortgage debts, oil mill, etc. The total amounts were understood to be worth about 20 lakhs of rupees. Very rigorous measures had to be introduced to realise the revenues, and to see that the landed properties are properly managed. We have also to pay off the debts of all decree-holders. It is incumbent on the Court of Wards to protect the interests of the decree-holders quite as well as those of the estate. We want to protect the interests of all creditors, and we are second to none in our desire to protect the interests of the decree-holders.

President.—They went so far as to ask the Government for a loan of 3 lakhs of rupees.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The Court of Wards is negotiating for a loan by public advertisement. We have already got two officers; we are advertising in the newspaper with a view to secure the most advantageous terms.

Mr. C. A. Ouseph.—May I know what is the estimated annual income?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It is not always perpetual. The figures are not before me. From memory I can say that. At the present stage, from landed proper.

LIBRARY ARCHIVES Kerala Legislative Assembly

ties it may come to 25,000 rupees. After effecting renewals, it may come to 40,000 rupees.

Mr. George Chakyamuri.—On a point of information. May I know how much you have been able to collect so far, roughly?

President.—Assets or revenues?.

Mr. George Chakyamuri.—I mean the revenues.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—We are collecting, and also maintaining an establishment for a purpose. I cannot give exactly. We are getting on.

Mr. S. F Nunez.—We must approximately judge.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar. —Yes. 20,000 rupees rent from land.

Mr. C. A. Ouseph.—So that, apparently it would seem that, by the income, these debts cannot be cleared up, and then the properties will have to be sold.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Yes. I am afraid so.

Mr. C. A. Ouseph.—One of the principles in having this Court of Wards is to pay off the debts with the income.

President.—If that is possible.

Mr. C. A. Ouseph.—The Government generally take up such estates of which the income will be sufficient to pay off the debts in a certain number of years. You are tying the hands of the decree-holders for ever. They have no remedy. Suppose no money is forthcoming.

President.—The Government would not keep such an estate in their power. They make an honest endeavour. They are not like ordinary judgment-debtors. In the interests of the decree-holders they will try. They are making *bona fide* endeavours to discharge the debts, and if they find it is impossible, they will give up the management. I suppose the Diwan Peishkar will do his best in that direction. He is doing his best. If he finds it is impossible to manage the estate, he will simply send a report that the management may be given up.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There is provision in the law for that.

Mr. A. B. Salem.—May I know the reasons that induced the Government to take up this judgment-debtor as a ward to the Court of Wards? Is the Government prepared to take everybody in debt who has got estates, and who is not capable of paying them up?

President.—But he must be a disqualified proprietor. In the present case there is a minor. Till he attains majority, the estate has to be managed.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. B. Salem.—Does the Government take up every minor under their protection? I understand the practice in Madras. Suppose he belongs to an old, ancient family of some status and condition—say, a Zemindar. If the ward is a young gentleman of standing, of an ancient, noble family, if he is involved, and is a minor, then the Government takes him under their protection. Here is a case where there is no such consideration. If the Government will say what the consideration is, and place the information before the House, it will help us to understand the matter. It is only an ordinary case of debt, being an ordinary landlord who is unable to pay off his debts. Is the Government to protect him ?

President.—All these points have been carefully considered. It is with considerable reluctance that the Government made up its mind to take up the management of this estate.

Mr. A. B. Salem.—If the information is placed before the House, we will be in a position to say whether it is a fit one, and whether this special emergency Regulation should also be passed.

President.—"The applicant is a grandson of an old prominent mill owner and business man, the late Mr. Kannu Pillai of Cochin. Kannu Pillai's son, the late Mr. Ponnunayanan Pillai, left three sons. (1) Mr. Sankaranainan Pillai, the applicant, aged 30 years, (2) Mr. Ramakrishna Pillai, aged 28 and (3) Kannu, aged 14—and a widow named Chomu Nachiyar, aged 54 years. Since the death of Ponnunainan Pillai, a partition was effected in the family, by which Ramakrishna Pillai was given his share of the property and separated. The other members of the family are now living together.

"The family owns landed properties in 13 villages of the Cochin-Kanayannur Taluk and two villages of the Mukundapuram Taluk. They have an extent of 629.31 3/4 acres, of which 216.13 acres are paddy lands and 413.18 3/4 acres are gardens and other *parambas*. The annual revenue assessment paid to the Government, including that charged on lands held on lease, amounts approximately to Rs. 3,600. Besides these, there are lands belonging to the family in British Malabar and Travancore, lists of which have not been prepared now.

A sum of Rs. 61,981—15—8 has been estimated to be the annual receipts of the estate, as shown below.—

	Rs. A. P.
Rent on land including value of grain rent	28,895—2—8
Interest on money advanced on mortgages	13,134—10—7

LIBRARY ARCHIVES Kerala Legislative Assembly

Interest on simple money loans, decree debts, etc.	11,531— 2—5
Rent on buildings	8,421—0— 0
Total Rs.	61,981—15—8

"The estate is on all accounts grossly mismanaged now. In fact, there is no management at all. The estate is heavily encumbered, the debts so far ascertained amounting to Rs. 4,56,589-4-8. The interest payable on these debts amount to Rs. 43,345-14-2 per year. Most of the debts are court decrees, and it is understood that steps are now taken to attach the estate lands and bring them to sale.

"The applicant Sankaranainan Pillai is the head of thef amily and its *de jure* Manager. His management has not been above criticism. He does not appear to have been doing well since the last few years. In 1095 he had an attack of scrofula, and he is not yet completely cured of its evil effects. He is a very young man, and has to manage a pretty big estate. Added to this is his physical incapacity for the time being. It is no wonder that the management of the estate has become quite chaotic.

"The matter was discussed at a meeting of the Court of Wards held on the 3rd instant. The Court has unanimously resolved that there are strong grounds for bringing the estate under its management. There is no question that the interests of the minor, Kannu, are in serious jeopardy, unless action under section 8 (a) of the Court of Wards Regulation is not immediately taken. But there is a difficulty. As mentioned in paragraph 2 *supra*, the share of only Ramakrishna Pillai in the estate has been separated in the partition, the other two brothers remaining a joint family. In such cases section 16 of the Regulation lays down that a suit has to be filed for partition of the minor's share of the property. The Court does not consider that this step should now be taken, since the proprietor has himself applied to the Government for bringing the whole estate under the Court's management, under section 17 of the Regulation.

"In the opinion of the Court, all the requirements of the section 17 have been fulfilled in this case. The family appears to be an old and important one. It forms one of our aristocracy. I understand it is in receipt of certain periodical allowances from the Palace. It has a big rent roll. The economic repercussion on the tenants of and other dependants on the estate

LIBRARY ARCHIVES Kerala Legislative Assembly

in case of dissolution of the estate will be immense. The late Mr. Kannu Pillai, in his days, was a notable man in commercial circles. It will be in public interests, if the estate is saved from rock and ruin.

"It has been estimated that there will be a net annual surplus of Rs. 6,000 after meeting all expenses. The estate can be made solvent, without any great difficulty, if it is brought under the Court's control."

Mr. A. Sankara Puduval.—Sir, I beg to oppose the introduction of this emergency Bill. I see no justification whatever for this emergent legislation being rushed through now. I beg to oppose it on two grounds; firstly, that this Bill, seems to have been necessitated by incautious action taken by the Government. Secondly, it would abruptly stop the execution of decrees obtained against this particular person. It is not proper on the part of the Government to bring in any emergent Regulation interfering with the rights of the decree-holders. This Regulation was passed in 1097, and it came into force on 1st Chingam 1098. The preamble says:

"Whereas it is expedient to provide means for the due preservation of the person and the property of incapacitated persons, etc.—".

This is the sole object of this legislation — to provide means for the due preservation of the person and property of incapacitated persons—disqualified persons. (Section 8, Chapter III).

"The following proprietors shall be deemed to be disqualified for the management of their property—minors, proprietors adjudged by a competent civil court to be of unsound mind and incapable of managing their property proprietors declared by the Government to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them to manage their property".

I am afraid none of these conditions exist in this case. One of the wards is a major; another is a minor. So far as I have been able to understand from the note read by the President, the major member is not incapable of managing his affairs. There will always be minors in any ordinary family, and the fact that there is a minor is no justification for interference. Now, it is a travesty of justice to bring in such an emergent measure. The Regulation has been passed solely with the object of protecting disqualified persons, minors, proprietors judged by a competent civil court to be incapable of managing, etc., as referred to above.

Now, inasmuch as this Regulation was passed in 1097, the Government were fully aware of the necessity for amendment, and yet no rules were framed; the Civil Procedure Code was

LIBRARY ARCHIVES Kerala Legislative Assembly

not amended nor were the necessary amendments incorporated in Regulation III of 1097. And when, as in the case of this particular estate, several persons had obtained decrees that the Government should interfere now and say, "we declare the owner of this estate to be a disqualified person; your hands are going to be tied against taking out execution" would be very unfair. These decree-holders never knew that the Government was going to rush through a legislation of this description. Now, it would be virtually depriving them of the fruits of the decrees that they have been obtained. If the rules had been published previously, they could have understood what the Government proposed to do in this matter. As it is, decrees have been obtained for very large amounts. All these decree-holders are now going to be restrained by the Government from resorting to legal means in obtaining satisfaction of decrees. And here you have information supplied to the House that the income is insufficient to pay off these claims. It is, therefore, a question of selling the estate. What the House has to consider is: "Would we be justified in rushing through legislation simply for the sake of protecting this particular estate, which, probably, does not come within the purview of this Regulation?" I venture to submit to this House that we shall be failing in our duty, if we do not oppose this emergent Bill. Courts of law would sufficiently safeguard their interests. There is a major, a minor and some other people in the family, and if this major, who is not a disqualified person, has not been able to settle the claims of the creditors, there is nothing wrong in the creditors having gone to court and in taking out execution of decrees obtained by them.

Mr. A. B. Salem.—On a point of order. Is the Hon'ble Member right when referring to the introduction of a piece of legislation, to argue upon a particular case? This is an ordinary piece of legislation brought, and upon that legislation, whether we could harp upon a particular case, so that the necessity of the legislation may be lost in the cloud when we are talking about it, is the question.

President.—The point of Mr. Sankara Puduval, so far as I followed him, is that this Bill would not have been brought in now but for the fact that the Government have assumed management of this estate, for protecting this estate, and this alone.

Mr. A. Sankara Puduval.—My point has been, if the Government really thought an amendment of the Regulation was necessary, it would have been introduced in the usual course, and everybody would have known about it. But now, that is not so. We have information supplied to the House that only a particular estate has been assumed under this Regulation;

LIBRARY ARCHIVES Kerala Legislative Assembly

and that was assumed on the 1st of Meenam last year. It is quite clear that this emergent Regulation has pointed reference only to this particular estate.

I do not, for a moment, mean to say that this Regulation should not be amended. That is necessary. Necessary amendments should be incorporated, giving sufficient previous notice, in the Civil Procedure Code or in the Court of Wards Regulation. I submit to this House that this emergent Regulation should not be accepted now for the purpose of this solitary estate.

President.—Apart from the reference to the particular estate under management, we will consider whether these provisions are in themselves salutary provisions.

Mr. A. Sankara Puduval.—In regard to that, I propose to deal with them later on.

President.—But, if the provisions themselves are salutary, whether they refer to the estate under management or otherwise does not matter.

Mr. A. Sankara Puduval.—That is the second ground of my objection. I mean to say this emergent Regulation is unnecessary inasmuch as we could have the same thing done in a non-objectionable manner, as was done in British India. The amendment of the Civil Procedure Code is going to be effected shortly; the necessary clauses could be introduced in them, and if anything more were necessary, then the amending Regulation may be resorted to. Before I addressed the House, I asked what the emergency of this legislation was, and I got no satisfactory answer. I do not mean to say that this Regulation (XIII of 1097) is exhaustive in itself. But things have to be done in the proper way, and it is unfair that either the Government or this House should be a party to a proceeding depriving decree-holders—who have to receive very large sums from the estate—of their right to execute their decrees and to ask them, to bide time, stop execution of decrees and to wait till Government be pleased to find funds for satisfying their claims or till the Government gives up its management. There is no justification in thus tying their hands down. They cannot take the law into their own hands. The ordinary rules of procedure would be followed. Legislation should be resorted to only in the interests of the body politic, the general public. Now, without ascertaining what the consequences would be, the House is asked to sanction a piece of emergent legislation which has been necessitated by the carelessness of the Government. I strongly oppose the introduction of this measure.

Mr. N. Padmanabha Menon.—Sir, I oppose the introduction of this Bill. From the Objects and Reasons supplied in

LIBRARY ARCHIVES Kerala Legislative Assembly

the Bill, and from the explanation we have heard from the Government, I am convinced that there is absolutely no necessity for a Bill of this sort now. If we analyse the objects and reasons and the explanation supplied to the House, one or two facts will be apparent. The income from the estate is insufficient to meet the liabilities. The Court of Wards has not, hitherto, thought fit to raise funds by selling the estate or any portion of it.

President.—Attempts are being made.

Mr. N Padmanabha Menon.—And there are many attempts that are made by the Government that have not borne fruit.

And a large amount is being spent monthly to meet the cost of the establishment necessary for the management of the estate. There is, except the answer that an attempt is being made to raise funds, no reason given why that attempt was not successful or earlier attempts were not made. If this Bill is passed into law, the hands of the creditors, as was pointed out by the Member for Trichur, will be tied. Somehow or other, the people of this State have more faith in the judicial discretion of a civil court than in the official discretion of the Revenue Officers here. (*Hear, hear.*) The President of the Court of Wards is the Diwan Peishkar. The Tahsildars, I think, will be asked to exercise discretion under this Bill. We can, more or less, know whether the Tahsildars will be able to go against the wishes of the President or the Diwan Peishkar. If he uses the discretion in one way as President of the Court of Wards and in the other as Diwan Peishkar, the results will be apparent. On these grounds, I submit it will be highly improper for the House to pass this legislation which will have for its effect the tying up of the hands of the creditors who would have gone to court to realise their monies earlier. And I do not see, if, in an urgent case, an estate wants to raise funds, either by mortgage or by selling all the properties, our civil courts will refuse an extension of time, thereby enabling the court to raise money and at the same time protecting the creditors by giving them every opportunity of realising money in an easier manner. On these grounds, I oppose the introduction of this Bill.

Mr. M. Krishna Menon.—Sir, I too rise to oppose this Bill. It is nearly nine or ten months since the Court of Wards assumed the management of this estate. The Diwan Peishkar will not deny that, till now, they were able to collect only sufficient funds to meet the establishment charges.

Mr. George Chakyamuri.—Not even for that.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. Krishna Menon.—Not a single pie has been paid to any of the creditors up to date. When the creditors apply for execution of decrees, the Court of Wards applies for time, and the courts of law have invariably granted them six months' and eight months' time, thinking that they will surely do something within that period. It will not be proper for them to go and ask for adjournments again, and so, to shut out the creditors once for all, they want this Bill to be passed.

President.—The Court of Wards itself feels that it has assumed an estate which cannot be managed.

Mr. M. Krishna Menon.—Exactly, Sir. Even the poor Manager had to run away. That is the position of the estate at present. The Diwan Peishkar is trying his level best to manage the estate. But he will not succeed. The estates in Travancore and British India are still in the possession of the debtor, and he is enjoying the whole income.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I have stopped his allowance.

Mr. M. Krishna Menon.—Then I ask you, Sir, why do you want to manage the estate of a man who is not willing to surrender his estate and obey your orders? The estate, according to the Court of Wards, is worth 20 lakhs. When the Government refused a loan of 3 lakhs on an estate worth 20 lakhs, what are we to infer? The Government is certainly interested in looking after the estate of the minor. When that Government refuses a loan of 3 lakhs upon an estate valued at 20 lakhs, what are the creditors to infer?

President.—But it may be that the Government has no funds.

Mr. M. Krishna Menon.—Even then, it is in the interests of the Government also to advance by instalments. If the decree-holders are paid by instalments, they will be satisfied. Further, I wish to know what is the interest of the Court of Wards in protecting the major's estate? Why not the Court of Wards immediately divide the minor's estate and pay off the debt binding upon that portion?

President.—But I suppose that, to partition, the major must agree.

Mr. M. Krishna Menon.—If he does not agree, they must go to court, and get a Receiver appointed. Why should the public suffer simply because a Tahsildar reported that the estate is worth 20 lakhs? If you go deep into the matter, you will find that this is a report of a Parvatiakkaran endorsed by a Revenue Inspector and passed by the Tahsildar in the usual way. This is sure, because the Government interested in the

LIBRARY ARCHIVES Kerala Legislative Assembly

minor refused three lakhs upon an estate valued at 20 lakhs. Any money-lender will not even doubt to advance 3 lakhs on an estate worth 20 lakhs. If the valuation is strictly scrutinised, it will be seen that the estate is not worth so much. Again, with regard to the income, I wish to know whether there is any balance after paying the Sirkar dues and meeting the management expenses. I am sure there is nothing left. Now, by this Bill the Court of Wards want to protect the interests of the major also. If the major's estate is divided, all these debts may not be binding on the minor's properties.

President.—Suppose we go to a court of law for partition. Then, you see, what will be the fate of these decree-holders ?

Mr. M. Krishna Menon.—They will sell the right, title and interest of the major. It will not be binding upon the minor.

President.—But, for that, the partition must actually be effected. First of all, there must be a decision as to partition.

Mr. M. Krishna Menon.—Even now, if the properties are sold for the debts of the major, the right, title and interest of the major alone will go. The minor's interests will be safeguarded. So far as the debts binding on the minor are concerned, the Court of Wards can look after them.

There is absolutely no necessity to introduce this legislation at this particular juncture for the purpose of safeguarding the estate of a man who is not behaving properly.

Mr. C. A. Ouseph.—Sir, I also oppose the introduction of this Bill. It is a great pity, that, in the circumstances of this case, we have to oppose the introduction of salutary provisions incorporated into their systems of law by civilised governments. It seems to us, certainly to me, that the Government rushed in where many would have dreaded to tread. The estate, to benefit which this Bill is sought to be introduced in this House, could have been very well managed by a Court Receiver appointed in the Insolvency proceedings which were pending when the estate was taken in hand by the Government. But by the Court of Wards taking up the estate, those proceedings were stayed. The Court of Wards took up the management, and now the Court of Wards ask this House through the Government to pass a piece of legislation in order to stay the hands of the creditors. The Government and this House are equally interested in creditors as well as debtors. In the case of debtors who are chronic, who never pay their debts, we should show more sympathy for the creditors than for the debtors themselves. The antecedents of the estate do not demand our sympathy. And what the Court of Wards has achieved

LIBRARY ARCHIVES Kerala Legislative Assembly

during the last few months does not justify that we should support them by passing this piece of legislation. The whole thing can be managed by the civil court with which are entrusted matters greater than this. Receivers appointed by the court in Insolvency proceedings manage very big affairs. Why not a Receiver appointed by the Court manage the affairs of these also? We could have avoided another machinery thereby. Under the circumstances of this particular case, I am constrained to oppose this piece of legislation. The fact that the Government did not think fit to advance 3 lakhs of rupees to the estate strengthens us in our opposition to this Bill. It may be said that the Government has no funds. But, with 40 lakhs of rupees surplus, can any one believe that the Government cannot find funds to support an estate worth 20 lakhs of rupees?

Dr. A. R. Menon.—Sir, I do not wish to deal with this subject from its legal point of view. We, as laymen, would like to know one point. I address an inquiry to the learned Advocate. Supposing this Bill is passed into law, how will it affect—adversely or otherwise—the creditors? We understand and appreciate that this Bill will go a long way to protect the interests of the minor and his property. But supposing we pass this Bill, will it affect adversely the creditors, and if so, to what extent? If he would enlighten us upon that point, then, of course, we may be in a position to support the Government or oppose it.

Mr. George Chakyamuri.—I rise to oppose this Bill I also think that there was absolutely no justification for the Government to rush in with the idea of taking up Mr. Sankaranainan Pillai's estate. In the first place Mr. Sankaranainan Pillai has not surrendered any of the properties which he has got in British India and Travancore, when the Government took up the management of the property. Mr. Sankaranainan Pillai is enjoying life in Alwaye with extensive properties in Travancore. I suppose there is absolutely no meaning in the Government trying to help such sort of people when they themselves take it as only a means to unnecessarily delay creditors. I understand there was strong correspondence with the Diwan Peishkar himself—I do not know how far it is true—the Diwan Peishkar may correct me if I am wrong—to ask him to surrender the Travancore estate, and he has so far persistently refused to surrender the estate to the Court of Wards. If it is so, there is absolutely no justification at all in taking up the estate in the Cochin State.

I know, as a matter of fact, there is considerable misery in the Cochin-Kanayannur Taluk particularly, on account of the

LIBRARY ARCHIVES Kerala Legislative Assembly

Government assuming this estate, and it has been brought to my notice personally. Hundreds of creditors are now suffering, who have all obtained decrees, who are not in a position to realise the money on account of the assumption of the management by the Court of Wards.

As the Hon'ble Member for Chalakkudi observed, there was an Insolvency proceedings pending when the Court assumed management. Where was the difficulty for the Government to appoint a Receiver? And as represented by the Hon'ble Member for Revenue, it is also clear that the estate itself is an insolvent one. From the figures he gave us, we get an annual income of over 20,000 rupees. If the debts are about five lakhs, putting it at 9 per cent, the annual amount to be paid to creditors would come to about 45,000 rupees. So that every year, the Court of Wards will have to find out another 20,000 rupees to satisfy creditors. That is the real position of the estate, and if that is so, I respectfully submit that there was absolutely no justification for the Government to take up this estate, and I would urge on the Government the necessity of abandoning the estate management as early as possible and relieving thousands of suffering people in the Cochin-Kanayannur Taluk especially.

Mr. A. B. Salem.—Sir, I rise to contribute a few words to this discussion, and I waited to see whether the Government would make their position clear in the matter. I never expected, Sir, that the Government of Cochin would bring in a piece of legislation before this House for the sake of giving protection to a particular individual. It has been abundantly made clear in this House that this piece of legislation has been placed on the anvil for the purpose of giving protection to a particular estate that they have chosen to take under their protection.

President.—Generally, it will apply to all the estates, but in this particular case it will immediately apply.

Mr. A. B. Salem.—I understand that it is the particular case that has been mentioned in this House that induced the Government to bring this piece of legislation at this juncture before this House. I say that you ought not to have done so, and in any way, Sir, I think it will be a very bad precedent to establish the custom of bringing in a piece of legislation for the purpose of protecting one particular case.

President.—This is brought in only to protect the interests of the minor.

Mr. A. B. Salem.—There is a major in this particular case.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—We are not concerned with the interests of the major at all.

Mr. A. B. Salem.—There is no justfiication for this piece of legislation brought here, and to be rushed through as a piece of emergent legislation. We have the amendment of the Code of Civil Procedure in view, and in that revised Code provisions can be made as in British India for such cases. This piece of legislation may very well wait till the passing of the amended Civil Procedure Code, and I think that is the proper way to look at it. No case has been made out to make the House feel the necessity and urgency for this Bill to save a particular debtor who had run into debt, and give him protection by depriving the vested rights of the creditors who are on the point of getting their money or to keep them off for a longer time. This makes me feel that this piece of legislation should be opposed.

Mr. George Chakyamuri.—The conduct of this particular party has not been quite right.

Mr. A. B. Salem.—I certainly oppose this piece of legislation being rushed through like this for giving protection to this case. I, therefore, oppose its introduction.

Mr. George Chakyamuri —What is the allowance given to Mr. Sankaranainan Pillai ?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—No allowance is paid to him at present. I shall give one word of explanation. As to his Travancore and British properties, we have no legal jurisdiction. Even in the case of the Zamorin's estate the Government of Madras, when they took the estate under the Court of Wards, took a special power of attorney to look after the properties lying outside British India, in our State. That took a year or so. We have no legal *locus standi* in the management of properties lying in Travancore and other parts out side Cochin, and the prosposed legislation takes in only the Cochin properties. We are taking action to get powers of attorney executed by Mr. Sankaranainan Pillai for Travancore and British lands. Further, as soon as the court came to know that Mr. Sankaranainan Pillai was enjoying the income from the Travancore properties, his allowance was stopped.

Mr. George Chakyamuri.—The Government can very well bring those properties also under its management. If the party is not willing, it can very well abandon the management.

President.—We are trying to protect the interests of the minor. We are not at all concerned with the interests of Mr. Sankaranainan Pillai. He may do anything he likes.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I have looked into the figures from 1092 to 1093. These poor creditors

LIBRARY ARCHIVES Kerala Legislative Assembly

have not been able to get any amount as yet. They had not been getting anything for the last nine years. We assumed management from 1101.

Mr. C. A. Kunjunni Raja.—That is one of the reasons that this piece of legislation should not be rushed through. For they have only two years more.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It is only ten months since we assumed management. We too are human beings. We have no divine powers. It is a matter of only ten months, and so many things have to be gone through.

Mr. K. Achyuta Menon.—Most of the Members are emphasising want of tact in the management. There was a point on which the Member for Irinjalakkuda had some doubt. He wanted to know whether the decree-holders would be affected by this Bill. Looking from the standpoint of all the creditors who have obtained decrees, this is an advantage. Some of them who have to get big amounts would try to knock down valuable properties for a small amount. The others would have to go away with nothing. It is a correct proposition to lay down that parties have more confidence in the civil courts than in the Revenue Officers. But it is also well-known that the amount realised in a court sale is much less than the real value of the property. The officer appointed by the Government would have better opportunities to realise the highest value.

President.—Receivers in Insolvency adopt such methods.

Mr. K. Achyuta Menon.—Apart from the question of appointing a Receiver, the effect is that creditors will benefit much by the courts not being allowed to conduct sales. Whenever there are a large number of creditors, only those holding decrees against the estate can proceed against the same. Most of the creditors may not want to go to a court. Most of these persons, when they come to know that the Court of Wards has entered into management, and know that there would be better management, would not go to a court. So it would also be an advantage to those creditors who have not gone to court. So in my opinion this piece of legislation would not prejudicially affect the creditors. It will prevent those who have obtained decrees from knocking down the whole property for a small amount. In the interests of the creditors, this legislation would be a great advantage.

It was suggested that we may amend the Civil Procedure Code. Members forget that the amending of the Civil Procedure Code on the lines of the British Act will not provide for the transfer of decrees, as in the British Indian Civil Procedure

LIBRARY ARCHIVES Kerala Legislative Assembly

Code. The execution of decrees alone has been provided for. The provisions regarding transfer of decrees are in the Court of Wards Act.

There is no basis for the inference that this piece of legislation on the part of the Government is not a well-considered one. I cannot understand such a serious charge. The attempt of the Government is characterised as unfair. There is nothing unfair on the part of the Government.

Then, with regard to the other objections, it is said that some of the creditors are on the point of getting their money, and this Bill, if passed, would affect them. I am speaking on behalf of the body of creditors of this estate.

Mr. A. B. Salem.—Whether the remarks of the Government Advocate are based on actual facts and actually affects this estate would be a very good point. How many secured creditors are there; how many unsecured, how many have gone to court?

Mr. K. Achyuta Menon.—I do not know whether the speeches of some Members are based on facts. I know many creditors have not gone to court. When I say that, you may take it as a fact.

Mr. S. F. Nunez.—I wish to know whether this is a discussion on the general principles or on the details.

Mr. K. Achyuta Menon.—We discuss only the general principles. The Member for Trichur has brought forward what appeared to be a legal objection, that the Court of Wards Regulation applied only to disqualified persons. A later section of the Regulation, section 17, says:

"A proprietor may make application to the Government to have his property placed under the Superintendence of the Court, and the Government may, on being satisfied that it is expedient in the public interests that such property should be managed by the Court, make a declaration to that effect and order the Court to assume the superintendence of such property".

There was an application by Mr. Sankaranainan Pillai to take the estate under the management of the Government. So that it is under both these sections that the Court of Wards assumed the management.

President.—What is that section?

Mr. K. Achyuta Menon.—It is section 17. This section does not depend upon disqualification or incapacity. Even an ordinary man can be taken under the Court of Wards. The only question is whether it was in the public interest that the Court of Wards entered into the management.

LIBRARY ARCHIVES Kerala Legislative Assembly

From the correspondence read by the President, most of the Members must have heard that there was a large number of tenants in the estate. I think it is too much to contend that a single Official Receiver of the court will be able to look after this large estate just like the Court of Wards. I have no doubt, if there is some Government control and supervision, the management would be more systematic than when it is left in the hands of a single individual. That is my opinion.

Mr. A. B. Salem.—No law is to be based on a single individual opinion.

Mr. K. Achyuta Menon.—We are expressing our individual opinion here, both official and non-official.

Mr. S. F. Nunez.—The Members passed their opinion that the Government is sceptical about the real valuation of the estate. I do not know whether it is due to want of funds or any doubt as to the real valuation of the estate.

President.—The Government thought that an investment in an encumbered estate like this might bring in difficulties. It is also due to want of funds. I do not know whether any particular reasons are given.

Mr. George Chakyamuri.—Who is the authority in British India to preside over the Court of Wards, and who is the appellate authority ?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It is the Collector and the appallete authority is the Board of Revenue.

Mr. A. Sankara Puduval.—In view of the information supplied by the Law Member, it is hoped that there would be real relief to the creditors. But the explanation is insufficient as it is, and, to a certain extent, inaccurate. It was pointed out that on technical questions opinions may differ; but both the view-points have to be presented. It is stated that, when the Court of Wards assumes management, those creditors, who have not gone to court, could also be benefited. Even under the Civil Procedure Code, when the Insolvency proceedings are going on, the Official Receiver can pay amounts to the creditors. The management by the Receiver is more efficient. He prepares a schedule of debts. Simple creditors will also be paid by the Receiver. There will be greater efficiency in the administration of justice by a Receiver appointed by a court than by an officer appointed by the Government. Under section 43 of the Regulation, the assumption by the Government is not open to question by the civil court. I said the Government carelessly assumed management. I believe it was done wrongly. But I do not want to address the House any more on that point. The main argument is about the disqualification, and the emergency. The Government

LIBRARY ARCHIVES Kerala Legislative Assembly

erroneously assumed management of the estate under section 17 of the Regulation; the House should sanction this emergency Regulation, because the Government finds itself in embarrassed circumstances. If they find that it is embarrassing, why Insolvency proceedings are pending and why not give up the management altogether? Whatever is proposed to be achieved by the Bill can be more efficiently and more satisfactorily achieved by the Official Receiver appointed by the court under the Insolvency proceedings.

Mr. N. Padmanabha Menon.—I want some information. I do not deny that the Member in charge has the interest of the creditors at heart.

President.—Opinion has been given on arguments. If we go on like this, there will be no end to the discussion.

Dr. A. R. Menon.—Will the learned Advocate explain the difference between an Official Receiver and a Court Receiver? It is difficult for us to understand it. We do not want to defraud the creditors, and at the same time we should do what we can for the minor.

President.—There is another standpoint. The management through the Court of Wards will be more efficient than the management by the Receiver of the court. I am not sure whether he is justified in saying that such a view is not correct. That is his honest conviction in the matter.

Mr. K. Achyuta Menon.—The creditors are at an advantage, if the execution of the decrees is stayed, for some creditors may knock down the whole property for a song, and the Regulation will be a check on such creditors in the execution of their decrees.

President.—We have assumed management over the estate only recently, and in actually managing the estate you are finding all sorts of difficulties. We are asked whether these difficulties should not have been anticipated before the management over the estate was assumed.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I may say that these difficulties were not anticipated.

President.—We assumed management, and after assuming management, we find so many difficulties in the way. We came to the Council and wanted to pass a Bill to make the management more efficient.

Mr. K. Achyuta Menon.—Supposing the Government was careless, and supposing the Government bungled in assuming management, the Government will throw away this estate, if they find it difficult for them to manage, even if this piece of legislation is passed. There is provision for that in the Court of Wards Regulation itself.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—They will keep up the management only if they find that they can manage it well.

Mr. K. Achyuta Menon.—Nobody will be anxious to manage this estate, if they find it very difficult. Then, as for this Bill, emergency Regulations are enacted, because we find occasions for them. We have brought in this Bill because we found the necessity for it now, and this will be of application in future cases also. In the case of the Land Acquisition Regulation, why did we pass that Regulation? That Regulation was passed because a particular necessity arose then. The question is whether this piece of legislation is absolutely necessary. To say that the Government was careless in assuming management before being armed with these provisions is no reason for the House to chuck out this Bill. It is no reason to say that the Government had not come with this piece of legislation earlier.

President.—What would be your position, if this Bill is passed by the Council? What would be the real state of things?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Even if this Bill is passed, it may not prove to be a panacea for all evils nor will it provide ample safeguard for the management of the estate of Mr. Sankaranainan Pillai. This is only one of the proposed doses of medicine that I wish to administer to cure the disease. We may be able to cure; or we may not be able to cure; if we find we are not able to cure, then we will have to give the case up. Well, if this Bill is passed, it will be a distinct advantage to the creditors also, and I may also assure that it will not be a disadvantage, in any case, to them. Some of the creditors who have obtained decrees in 1091 and 1092 are really anxious, for they were not able to realise anything as yet. If the Court of Wards will find funds and settle the matter out of court, they will only be too glad. On the other hand, regular execution of suits causes delays, and also results in some loss to them. They are anxious to get their liabilities discharged; for example, if the Court of Wards arranges to pay the creditors by raising funds by a loan—which it is trying—they would be too glad, and recourse to court for the actual execution of decrees will only be a last resort. In British India, an official of the rank of the Collector does everything to satisfy all the creditors by following certain systematic processes. Generally, urgent and small debts will be paid first, non-urgent debts by instalments, with agreements to pay a certain rate of interest, and so on. There the responsible officer of the Court of Wards is an officer of the position of a Collector. We have got a Court of Wards consisting of three officers corresponding to the British Court

LIBRARY ARCHIVES Kerala Legislative Assembly

of Wards, of which the Diwan Peishkar is the President. There is a provision in Chapter V of the Regulation that a list should be made of all the creditors and debtors, and the creditors are paid off in a systematic manner. But a civil court cannot wait for that thing. If a decree-holder applies to the court for the sale of the property, the court may not stop the sale. Properties may be sold away for a song. So a method has to be devised to dispose off these properties by the Court of Wards in a systematic manner. This piece of legislation is brought in, in the interests of debtors as well as the creditors. Even if this Bill is not passed, I do not think that most of the decree-debtors will gain any special advantage. I think the amounts of debt range from Rs. 50 to Rs. 1,50,000 (1½ laks). The small creditors will get nothing. But to those who have been watching the proceedings, one fact is quite clear. There are some decree-holders who have granted loans to the properties, who have calculated interest—compound interest—and the amount is big enough. Some of these persons, whose names I do not want to mention here, will be benefited, if this Bill is not passed. But those small creditors who are to get only Rs. 200 or so will have to go away with nothing. We provide some remedy under this Bill for protecting the small creditors. A special officer will be appointed to check all liabilities and draw up a list of the decree-holders, and decree-holders will have a better chance of getting their decrees satisfied than in the present unsettled state of affairs of the estate. We are only trying to set things right in the interest of the minor, and with the object also of safeguarding the interest of the creditors. In the administration of an estate like this, it is not possible to conceive and anticipate every possible difficulty that will occur in the future. No action is possible in any case, if such ideal state of things is insisted on. If this House will be pleased to pass this Bill, it will minimise the difficulty in the administration of the estate, and further, a large number of poor creditors in the Cochin-Kanayannur Taluk will be benefited. They will be more satisfied, if money is given to them, than being asked to go to a court to get the money. The execution processes have been going on for eight or nine years without an agent, and the poor creditors think that the assumption of management by the Court of Wards is an advantage to themselves.

President.—I think there were some sales before the assumption of management by the Court of Wards.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—No property on a large scale was sold. There is an oil mill belonging to the estate which is grossly mismanaged.

Mr. A. Sankara Puduval.—Hon'ble Members are not allowed to make any remarks, on matters pending before a

LIBRARY ARCHIVES Kerala Legislative Assembly

court. The Government, at any rate, are not correct in condemning Official Receivers in respect of a matter which is pending.

President.—What I wanted to know is what will be the immediate effect of rejection of a Bill like this? Will you be compelled to give up the management?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I am afraid we will have to give it up.

President.—The management will be left out. Then the problem is solved. That is all.

Mr. A. Sankara Puduval.—Official Receivers would be able to do better. They are under the control of the District Court and the Chief Court.

President.—If the view of the House is so, we will decide it.

The motion for introducing the Cochin Court of Wards Regulation was put to votes and carried.

Mr. C. A. Kunjunni Raja.—A poll, Sir.

A poll was taken with the following result.

Ayes.

1	Mr. C. Achyuta Menon	10	Mr. K. Krishna Pisharodi
2	,, K. Achyuta Menon	11	,, C. Matthai
3	,, V. K. Aravindaksha Menon	12	,, S. F. Nunez.
4	,, A. Eachara Menon	13	,, K. S. Rama Ayyar
5	,, K. Govinda Menon	14	,, I. Raman Menon
6	,, F. Ikkanda Wariar	15	,, Sheik Abdul Qadir Sahib Bahadur
7	Rao Sahib Mr. T. V. Kasturi Ranga Ayyar	16	,, V. B. Vaidyanatha Ayyar
8	Mr. V. K. Kochunni Menon	17	,, A. K. Vengu Ayyar
9	,, T. K. Krishna Menon	18	Diwan Bahadur Dr. V. Verghese

Noes.

1	Mr. I. E. Ambooken	10	Mr. C. A. Kunjunni Raja
2	,, Chakko Cheruvattur	11	,, A. Kuria Thoma
3	,, O. R. Chummar	12	,, K. T. Mathew
4	,, George Chakyamuri	13	,, C. A. Ouseph
5	,, C. N. Ittiravi Nambudiri	14	,, N. Padmanabha Menon
6	,, K. P. Karuppan	15	,, T. A. Ramachandra Ayyar
7	,, S. S. Koder	16	,, M. K. Raman
8	,, M. Krishna Menon	17	,, A B. Salem
9	,, P. Kunju Muhammad	18	,, A. Sankara Puduval

Neutral.

1 Dr. A. G. Menon
2 Dr. A. R. Menon
3 Mr. H. J. Walmesly

President.—The House is equally divided. We have 18 on one side and 18 on the other. Have I not an independent vote of my own? If so, I exercise it in favour of the motion. So there is no necessity for a casting vote.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. S. S. Koder.—There is no necessity for a casting vote.

President.—Then there are 19 votes against 18, and the motion is carried. We shall proceed with the next item.

Mr. T. K. Krishna Menon.—The title of the Bill is "The Bill to amend the Cochin Court of Wards Regulation."

Mr. K. Achyuta Menon.—Sir, I do not propose to move for the appointment of a Select Committee regarding this Bill, as it is a very urgent one. I request you to refer to Standing Order 32 which requires 15 days to elapse before I can move it for the consideration of the House.

"If no mention for referring the Bill to a Select Committee is made as in clause (4) of the preceding Standing Order, or if a motion is made and negatived, the Member in charge shall not move the Bill to be taken into consideration until the expiration of 15 clear days from the date on which the Bill was read under clause (2) of the preceding Standing Order, provided that the President may, in his discretion, suspend this Standing Order, and allow the motion to be made at once or before the expiration of 15 clear days."

Mr. M. K. Raman.—Sir, I am unable to agree with the Hon'ble Law Member, and I wish to point out that this is not an emergent enactment. As this House is equally divided on this Bill, it would be better, if it is referred to a Select Committee. I think it is better that this Bill passes through all the different stages which an ordinary enactment should pass through. I see no occasion for the President to suspend the rule of 15 days' time in respect of this Bill and before the President decide one way or the other. I wish to make this observation. I heard it said here that this Bill is brought now for the sake of a particular case. It is very bad in principle to pass an enactment for the sake of a particular case, although, later on, it would be useful in other cases too.

President.—The mover of the Bill wants to carry it as an emergent measure.

Mr. M. K. Raman.—I have my own doubts whether in passing this Bill there is anything emergent. From what I have been able to gather out of the discussions, I should think that there is a great deal of difference of opinion with regard to this Bill. So, I am of opinion that the President should consider much in using his discretion whether the rule of 15 days should be suspended or not. It should be absolutely necessary that it should pass through all the various stages in the ordinary course of business.

Mr. K. Achyuta Menon.—It is left to the Member who proposes the Bill to refer it to the Select Committee. The

LIBRARY ARCHIVES Kerala Legislative Assembly

President can refuse to suspend an order. The result will be that the Member in charge of the Bill will not be entitled to move that the Bill be taken into consideration until the expiration of 15 days from this date.

President.—Taking into consideration this fact, it is incumbent upon you to refer it to a Select Committee.

Mr. K. Achyuta Menon.—The reference to the Select Committee should be prior to the motion that the Bill be taken into consideration. Since I do not propose to move for referring the Bill to a Select Committee, 15 days' time should elapse, unless the President suspends the rule.

President.—Do you mean to say that the question before the House is whether a reference to the Select Committee is necessary or not?

Mr. K. Achyuta Menon.—It is left to me to decide whether I should move that the Bill be referred to a Select Committee.

President.—It is left to the option of the Member in charge of the Bill to say whether he wants to take it to the Select Committee or not. The only point is whether he should be asked to give 15 days.

Mr. M. K. Raman.—It is left to the discretion of the President whether he should allow the Bill to be immediately passed or not.

President.—We have so many other things to consider. The Members will have to consider and examine each and every clause, and they have to say whether they press it in the Council.

Mr. M. K. Raman.—The President can use his discretion whether the 15 days' time should lapse or not. He should not allow that rule to be suspended, because, if that time is available, Members will be in a better position to consider the merits and de-merits in it. There is absolutely no harm, if this Bill is not forthwith passed in this Council. As I said, it would be bad in principle, if an enactment is passed simply for the sake of a particular case. An enactment passed should be for the general welfare of the State. Therefore, my humble submission is that the rule should not be suspended, and that time should be allowed for the Members to consider about it.

Dr. A. R. Menon.—We are in a difficult position. This is a matter which involves the interests of minors as well as the decree-holders. You will understand that such a subtle ordinance cannot be easily understood by a layman. It would be quite a folly to pretend that one has understood the arguments on both sides. Even eminent Judges who have been sitting on

LIBRARY ARCHIVES Kerala Legislative Assembly

the Benches for two or three decades sometimes find it very difficult to come to a conclusion after hearing a case on both sides. There are Members who are in the legal profession on both sides of the House, and they have taken opposite views about this Bill. Such being the case, it would be very unfair to call upon us to decide a question of this nature on the spur of the moment. Therefore, I would request not only to the President but the learned Advocate himself (the mover of this Bill) whether they could not find their way to let the matter go to a Select Committee so as to consider it in its full details and to come to a definite conclusion. You will allow me to observe that in these questions arguments have been advanced on both sides by men who command large practice in the legal profession, and whose opinion must carry weight with us. Therefore, it would be presumptuous on the part of a layman to express his opinion about the merits of the Bill. If the learned Advocate is correct in his contentions, then my friend sitting on the left, finds it very difficult to agree with him. I, for the first time in this Council, remain neutral, because I do not find my way clear here to act. In a matter of this nature which admits of such divergent views, it would be wiser and more reasonable to submit this to a Select Committee for their considered opinion. If the Government Advocate could not find his way to accept this proposal, then certainly, Sir, you should forget that you are the head of the Government, and remember that you are the President of the Council on this occasion, and refuse your sanction to suspend the rules.

President.—So far as the provisions are concerned, there is nothing new in them. They are all being transferred from the British Act. There is nothing to be considered except about the principle of it.

Mr. C. Achyuta Menon.—No one has objected to the provisions.

President.—We are only bringing the provisions of other States into force here.

Mr. M. Krishna Menon.—The object is only to avoid clerical mistakes. We were not able to do it in the Telegraph Regulation.

President.—Taking clause by clause, you can compare this with the British provisions.

Mr. K. Achyuta Menon.—Members of the Select Committee are not expected to find out clerical mistakes but substantial mistakes. I cannot understand the necessity of having a Select Committee simply as a formality. If we are passing a original Bill, of course, we may refer it to a Select Committee.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—I can perfectly agree with you, when there is a difference of opinion about the principle of the Bill. When once the principle has been agreed to by the House, the only question we have to consider is whether we are justified in transferring the provisions of the British Act into effect at once or 15 days hence or at whatever time, without obtaining the views of the Select Committee. What will the Select Committee say? They will only say that these are all British provisions, and these are all matters of procedure.

Mr. A. B. Salem.—The difficulty is this. We have now found out that the great majority of the non-official opinion in this Council is decidedly against the idea that this piece of legislation is so very emergent.

President.—It has been already carried. I do not think any observation is necessary on this point. The motion has been already carried, and I do not know whether at such a critical juncture I should suspend the rule.

Mr. A. B. Salem.—We, the majority of the non-official Members here, are against the idea that this particular piece of legislation is so very emergent, and the necessity of the particular case for which you have brought this legislation has not our approval. I may suggest that this has induced us to think that this Bill should not be rushed through. The views of the creditors who are not here should be taken, and the views of the debtors are represented by the Government. It is incumbent upon us to know what view the creditors take. It is open to the Hon'ble Member in charge of the Bill to refer it to a Select Committee.

Mr. C. Achyuta Menon.—We cannot do it now. We have passed that stage.

Mr. A. B. Salem.—That matter is left to his consideration. Therefore, I say that you should not suspend any of the rules of the Council, when you are aware of the fact that the country as a whole which is represented here is against this piece of legislation. I, therefore, appeal to you in the names of the non-official Members, not to suspend any rule in your power and cast your discretion in favour of the opinion of the country, and allow the Bill to wait for 15 days to see whether petitions are received.

President.—I am not unaware of this. It is only a very slender majority. What I am now pointing out is that I am exercising my discretion about the relative facts in connection with the provisions of the Bill. With regard to this, we must make enquiries, elicit opinions and wait and see. There will be a further consideration of the matter after the light thrown in regard to it by these enquiries. I find all provisions of the British

LIBRARY ARCHIVES Kerala Legislative Assembly

Act are being transferred here. So there is no necessity for us to think over the matter.

Mr. A. B. Salem.—I agree with you on the provisions of the Bill. What I say is that we are going to bring those provisions into existence in our State for the applications of those principles to a particular case, and this has been made clear to this House. Whether this case is such, as to bring this legislation immediately into existence has to be considered, and the country's opinion is to the contrary. In the opinion of the Government it has been carried. It is for the majority to say whether these provisions are immediately necessary for application. In such a state of affairs, will it not be desirable to give the country at large the period of 15 days? The Government should view this matter in this light.

President.—What will the country do in 15 days?

Mr. A. B. Salem.—The creditors may come and say: "We do not want this Bill". They may also give a lot of other information. If a Select Committee is going to be appointed, they will go there for the purpose of getting and giving information.

President.—The Bill has been already published in the Gazette If there had been any objection, it would have been represented then and there. We would have then looked into it. The discretionary power of the President allows 15 days' time, when there is anything in the actual provisions which requires thought, enquiry and consideration of the views of others. I think I cannot agree with you. Since these provisions already exist in the British enactment, and we are simply transferring them to our enactment, I do not know whether any purpose will be served by putting off the Bill for some time longer. Any contentious matter which requires thought is not certainly suspendable.

Mr. A. B. Salem.—I assure you that there would be contentions as to the rules and provisions of the Bill.

President.—Then it will be your duty to draw my attention to it.

Mr. A. B. Salem.—We are not prepared for all those things. We have asked for 15 days' time.

President.—Any emergent measure which is essentially necessary can be carried before the House. A good deal will depend on contemplations in matters concerning the provisions. My understanding is there is only very little to discuss. If there is room for difference of opinion, then bring it to my notice, and I can see that the rule is not suspended. Some understanding of the merits will also be necessary.

Mr. C. Achyuta Menon.—The objection is not to the provisions of the Bill but to the passing of it.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Sankara Puduval—I object to each and every clause of this Bill, if the President would be pleased to know the Parliamentary procedure in this matter.

President.—It is not a contentious matter, if the transfer of rules from British India is the point raised, and if this is so, there is a limit for raising the controversy.

Mr. A. B. Salem.—We want to get some time to think over the matter.

President.—It was published in the Gazette for that purpose.

Mr. A. B. Salem.—The Bill should lie over for 15 days. It was published only on the 7th of Thulam, and it was not published that the rules of usual procedure would be suspended.

President.—You should anticipate it.

Mr. A. B. Salem.—We anticipated that the Bill will be thrown out. (*Laughter.*)

President.—But you should also anticipate that it will be passed. Both these contingencies will have to be met.

Mr. N. Padmanabha Menon.—Section 67, clause (3) reads as follows—

"Where any such dispute arises, the officer aforesaid shall refer the same with a statement thereof, and his own opinion thereon to the court which made the original order for sale, and shall, pending the reference, stay proceedings related to the subject thereof. The court shall dispose of the dispute, if the matter thereof is within its jurisdiction or transmit the case to a competent court for disposal, and the final decision shall be communicated to the officer aforesaid, who shall then draw up a statement as above provided in accordance with such decision".

Mr. K. Achyuta Menon.—Certain decrees are also passed by civil courts. A portion of the rules comes under the category of the rules of the Civil Procedure Code.

President.—Which is the officer referred to?

Mr. K. Achyuta Menon—In British India it is the Collector.

President.—Does the rule provide for the qualifications of the officer?

Mr. K. Achyuta Menon.—No, Sir. The Government may declare by notification such officer as the Government may appoint.

Mr. A. B. Salem.—The question here is about the suspension of the rule.

President.—If any consideration is required, we will not be justified in suspending it, as we have to think over the matter.

LIBRARY ARCHIVES Kerala Legislative Assembly

The Council then rose for lunch, it being 2 p. m. It met again after an hour.

Mr. V. K. Kochunni Menon.—There are two sections in the Bill which require careful consideration. Section 3, clause (3) It is so very complicated.

President.—What is the particular section to which you drew my attention?

Mr. A. Sankara Puduval.—Section 67 (3).

Mr. V. K. Kochunni Menon.—The other requires two enquiries. Section 67 requires only one. Under clause (3) we have to conduct two enquiries. If section 68 is adopted, two enquiries are necessary. All that depends upon the status of the officer. Then, again, section 23, clause (3).

President.—Why should I not exercise my discretion?

Mr. K. Achyuta Menon.—I shall not be sorry. One of the Judges has solemnly promised that, "if I am a Judge here, I shall myself see that the properties are sold in Makaram next." Circumstances may at times vary.

President.—Why did they draw my attention to the court? Of course; others may stand in the way.

Mr. M. Krishna Menon.—He adjourned it, when we complained of the matter.

President.—The rule cannot be suspended. It may come at the next meeting.

Mr. K. Achyuta Menon.—Of course, it must come. I cannot move that it be taken into consideration until the expiry of 15 days.

President.—I cannot suspend the rule.

Auery regarding the Cochin Court-Fee Amendment Bill.

Mr. A. Eachara Menon.—On a point of information, Sir. I had submitted a Bill to amend the Cochin Court-Fee Regulation, to the Government last year. The sanction of the Diwan, in my opinion, lapses in either of two ways:— one, either the force contained therein must spend itself, or the Government should revoke their order. It is neither the case here. I had only requested the Diwan for his consent to introduce this Bill. He gave me his permission.

President.—How was it, Mr. Krishna Menon?

Mr. T. K. Krishna Menon.—I have to refer to my office file, Sir. I shall supply the Member with the information to-morrow.

President.—Mr. Eachara Menon, he will give you the information.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. K. Krishna Menon.—I told that to the Member myself, Sir.

RESOLUTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

The Introduction of Compulsory Training in Household Arts and Industries.

The following resolution was considered to have been withdrawn, as the mover, Sy. T. Madhavi Amma, was absent, when the resolution was called.

"That, in view of the number of adult girls that discontinue their studies or stop after the High School course, without any settled plan in life for want of knowledge in household arts or cottage industries, this House requests the Government to introduce compulsory training in household arts and household industries in all the Girls' Schools in the State."

The House adjourned at 3—14 p.m., the business tabled for the day being over.

T. K. KRISHNA MENON,
Secretary to the Council.

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